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Shellpoint Mortgage Servicing*

**UNITED STATE DISTRICT COURT
DISTRICT OF NEVADA**

REGINA M. FLORENCE,

Plaintiff,

vs.

CENLAR FEDERAL SAVINGS & LOAN;
SELECT PORTFOLIO SERVICING;
SHELLPOINT MORTGAGE SERVICING;
EXPERIAN INFORMATION SOLUTIONS,
INC.,

Defendants.

Case No.: 2:16-cv-00587-GMN-NJK

**STIPULATED ~~(PROPOSED)~~
PROTECTIVE ORDER**

AS AMENDED

Pursuant to Federal Rule of Civil Procedure 26(c), Plaintiff Regina M. Florence (“Plaintiff”), and Defendant New Penn Financial, LLC dba Shellpoint Mortgage Servicing (“Defendant”), by and through their respective counsel of record, hereby submit this stipulated proposed protective order and request entry thereof.

I. GENERAL PROVISIONS

A. PURPOSES AND LIMITATIONS

Discovery in this action may involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Such confidential materials and information consist of, among other things, confidential business or

1 financial information, information regarding confidential business practices, or
2 information implicating privacy rights, information otherwise generally unavailable to
3 the public, or which may be privileged or otherwise protected from disclosure under
4 state or federal statutes, court rules, case decisions, or common law.

5 To expedite the flow of information, to facilitate the prompt resolution of
6 disputes over confidentiality of discovery materials, to adequately protect information
7 the parties are entitled to keep confidential, to ensure that the parties are permitted
8 reasonably necessary uses of such material in preparation for and in the conduct of trial,
9 to address their handling at the end of the litigation, and serve the ends of justice, a
10 protective order for such information is justified in this matter. It is the intent of the
11 parties that information will not be designated as confidential for tactical reasons and
12 that nothing be so designated without a good faith belief that it has been maintained in a
13 confidential, non-public manner, and there is good cause why it should not be part of the
14 public record of this case.

15 Accordingly, the parties hereby stipulate to and petition the Court to enter the
16 following Stipulated Protective Order. The parties acknowledge that this Order does not
17 confer blanket protections on all disclosures or responses to discovery and that the
18 protection it affords from public disclosure and use extends only to the limited
19 information or items that are entitled to confidential treatment under the applicable legal
20 principles.

21 II. DEFINITIONS

22 2.1. **Action:** This pending federal lawsuit, captioned as *Regina M. Florence*
23 *v. Cenlar Federal Savings & Loan, et al.*, Case Number 2:16-cv-00587-GMN-NJK.

24 2.2. **Challenging Party:** A Party or Non-Party that challenges the
25 designation of information or items under this Order.

26 2.3. **“CONFIDENTIAL” Information or Items:** Information (regardless of
27 how it is generated, stored or maintained) or tangible things that qualify for protection
28 under Federal Rule of Civil Procedure 26(c), and as specified above in the Purpose and

1 Limitations section.

2 2.4. **Counsel:** Outside Counsel of Record and In-House Counsel (as well as
3 their support staff).

4 2.5. **Designating Party:** A Party or Non-Party that designates information or
5 items that it produces in disclosures or in responses to discovery as
6 “CONFIDENTIAL.”

7 2.6. **Disclosure or Discovery Material:** All items or information, regardless
8 of the medium or manner in which it is generated, stored, or maintained (including,
9 among other things, testimony, transcripts, and tangible things), that are produced or
10 generated in disclosures or responses to discovery in this matter.

11 2.7. **Expert:** A person with specialized knowledge or experience in a matter
12 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
13 expert witness or as a consultant in this Action.

14 2.8. **In-House Counsel:** Attorneys who are employees of a party to this
15 Action. In-House Counsel does not include Outside Counsel of Record or any other
16 outside counsel.

17 2.9. **Non-Party:** Any natural person, partnership, corporation, association, or
18 other legal entity not named as a Party to this action.

19 2.10. **Outside Counsel of Record:** Attorneys who are not employees of a
20 party to this Action but are retained to represent or advise a party to this Action and have
21 appeared in this Action on behalf of that party or are affiliated with a law firm that has
22 appeared on behalf of that party, including support staff.

23 2.11. **Party:** Any party to this Action, including all of its officers, directors,
24 employees, consultants, retained experts, and Outside Counsel of Record (and their
25 support staffs).

26 2.12. **Producing Party:** A Party or Non-Party that produces Disclosure or
27 Discovery Material in this Action.

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1 1. Any information designated as “CONFIDENTIAL” that is not
2 used or introduced as an exhibit at trial shall remain protected under this Order and be
3 subject to final disposition as set forth under Section 12 (FINAL DISPOSITION).

4 2. Should resolution be reached prior to a trial, the terms of the
5 protective order extend up to final disposition of the Action.

6 **V. DESIGNATING PROTECTED MATERIAL**

7 5.1. **Exercise of Restraint and Care in Designating Material for**
8 **Protection.** Each Party or Non-Party that designates information or items for protection
9 under this Order must take care to limit any such designation to specific material that
10 qualifies under the appropriate standards. The Designating Party must designate for
11 protection only those parts of material, documents, items, or oral or written
12 communications that qualify so that other portions of the material, documents, items, or
13 communications for which protection is not warranted are not swept unjustifiably within
14 the ambit of this Order.

15 Mass, indiscriminate, or routinized designations are prohibited. Designations that
16 are shown to be clearly unjustified or that have been made for an improper purpose (e.g.,
17 to unnecessarily encumber the case development process or to impose unnecessary
18 expenses and burdens on other parties) may expose the Designating Party to sanctions.

19 If it comes to a Designating Party’s attention that information or items that it
20 designated for protection do not qualify for protection, and the Designating Party agrees
21 or the Court orders otherwise, that Designating Party must promptly notify all other
22 Parties that it is withdrawing the inapplicable designation.

23 5.2. **Manner and Timing of Designations.** Except as otherwise provided in
24 this Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise
25 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
26 under this Order must be clearly so designated before the material is disclosed or
27 produced. Designation in conformity with this Order requires:

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1 (a) for information in documentary form (e.g., paper or electronic
2 documents, but excluding transcripts of depositions or other pretrial or trial
3 proceedings), that the Producing Party affix, at a minimum, the legend
4 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
5 contains protected material. If only a portion or portions of the material on a page
6 qualifies for protection, the Producing Party also must clearly identify the protected
7 portion(s) (e.g., by making appropriate markings in the margins) to the extent possible.

8 A Party or Non-Party that makes original documents available for
9 inspection need not designate them for protection until after the inspecting Party has
10 indicated which documents it would like copied and produced. During the inspection
11 and before the designation, all of the material made available for inspection shall be
12 deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents it
13 wants copied and produced, the Producing Party must determine which documents, or
14 portions thereof, qualify for protection under this Order. Then, before producing the
15 specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to
16 each page that contains Protected Material. If only a portion or portions of the material
17 on a page qualifies for protection, the Producing Party also must clearly identify the
18 protected portion(s) (e.g., by making appropriate markings in the margins).

19 (b) for testimony given in depositions that the Designating Party
20 identifies the Disclosure or Discovery Material on the record, before the close of the
21 deposition all protected testimony. In the alternative, the Designating Party may
22 designate the entirety of the testimony given at the deposition, as well as exhibits, as
23 “CONFIDENTIAL” prior to conclusion of the deposition with the right to identify more
24 specific portions of the testimony as to which protection is sought within 30 days
25 following receipt of the deposition transcript. Where portions of the testimony are
26 designated for protection, the transcript pages containing Disclosure or Discovery
27 Material may be separately bound by the court reporter with the legend
28 “CONFIDENTIAL” at the top of each such page.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3. **Inadvertent Failures to Designate.** If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

VI. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1. **Timing of Challenges.** Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court’s Scheduling Order.

6.2. **Meet and Confer.** The Challenging Party shall initiate the dispute resolution process under Local Civil Rule 26-7. Any discovery motion must strictly comply with the procedures set forth in Local Civil Rules 26-7 and 26-8.

6.3. **Burden.** The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party’s designation until the Court rules on the challenge.

VII. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1. **Basic Principles.** A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action

1 only for prosecuting, defending, or attempting to settle this Action.

2 (a) Such Protected Material may be disclosed only to the categories of
3 persons and under the conditions described in this Order.

4 (b) When the Action has been terminated, a Receiving Party must comply
5 with the provisions of Section 12 below (FINAL DISPOSITION).

6 (c) Protected Material must be stored and maintained by a Receiving Party at
7 a location and in a secure manner that ensures that access is limited to the persons
8 authorized under this Order.

9 7.2. **Disclosure of “CONFIDENTIAL” Information or Items.** Unless
10 otherwise ordered by the Court or permitted in writing by the Designating Party, a
11 Receiving Party may disclose any information or item designated “CONFIDENTIAL”
12 only to:

13 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
14 well as employees of said Outside Counsel of Record to whom it is reasonably necessary
15 to disclose the information for this Action;

16 (b) the officers, directors, and employees (including In-House Counsel)
17 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

18 (c) Experts (as defined in this Order) of any Party to whom disclosure is
19 reasonably necessary for this Action and who have signed the “Acknowledgment and
20 Agreement to Be Bound” (Exhibit A);

21 (d) the Court and its personnel;

22 (e) court reporters and their staff;

23 (f) professional jury or trial consultants, mock jurors, and Professional
24 Vendors to whom disclosure is reasonably necessary for this Action and who have
25 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

26 (g) the author or recipient of a document containing the information or a
27 custodian or other person who otherwise possessed or knew the information;

28 (h) during their depositions, witnesses, and attorneys for witnesses, in the

1 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
2 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not
3 be permitted to keep any confidential information unless they sign the
4 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed
5 by the Designating Party or ordered by the Court. Pages of transcribed deposition
6 testimony or exhibits to depositions that reveal Protected Material may be separately
7 bound by the court reporter and may not be disclosed to anyone except as permitted
8 under this Stipulated Protective Order; and

9 (i) any mediator or settlement officer, and their supporting personnel,
10 mutually agreed upon by any of the parties engaged in settlement discussions.

11 **VIII. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
12 **PRODUCED IN OTHER LITIGATION**

13 1. If a Party is served with a subpoena or a court order issued in other
14 litigation that compels disclosure of any information or items designated in this Action
15 as “CONFIDENTIAL,” that Party must:

16 (a) promptly notify in writing the Designating Party. Such
17 notification shall include a copy of the subpoena or court order;

18 (b) promptly notify in writing the party who caused the subpoena or
19 order to issue in the other litigation that some or all of the material covered by the
20 subpoena or order is subject to this Protective Order. Such notification shall include a
21 copy of this Stipulated Protective Order; and

22 (c) cooperate with respect to all reasonable procedures sought to be
23 pursued by the Designating Party whose Protected Material may be affected.

24 2. If the Designating Party timely seeks a protective order, the Party served
25 with the subpoena or court order shall not produce any information designated in this
26 action as “CONFIDENTIAL” before a determination by the court from which the
27 subpoena or order issued, unless the Party has obtained the Designating Party’s
28 permission. The Designating Party shall bear the burden and expense of seeking

1 protection in that court of its confidential material and nothing in these provisions should
2 be construed as authorizing or encouraging a Receiving Party in this Action to disobey a
3 lawful directive from another court.

4 **IX. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

5 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
6 Protected Material to any person or in any circumstance not authorized under this
7 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
8 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
9 all unauthorized copies of the Protected Material, (c) inform the person or persons to
10 whom unauthorized disclosures were made of all the terms of this Order, and (d) request
11 such person or persons to execute the "Acknowledgment and Agreement to Be Bound"
12 that is attached hereto as Exhibit A.

13 **X. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE** 14 **PROTECTED MATERIAL**

15 When a Producing Party gives notice to Receiving Parties that certain
16 inadvertently produced material is subject to a claim of privilege or other protection, the
17 obligations of the Receiving Parties are those set forth in Federal Rule of Civil
18 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
19 may be established in an e-discovery order that provides for production without prior
20 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
21 parties reach an agreement on the effect of disclosure of a communication or information
22 covered by the attorney-client privilege or work product protection, the parties may
23 incorporate their agreement in the stipulated protective order submitted to the Court.

24 **XI. MISCELLANEOUS**

25 **11.1. Right to Further Relief.** Nothing in this Order abridges the right of any
26 person to seek its modification by the Court in the future.

27 **11.2. Right to Assert Other Objections.** By stipulating to the entry of this
28 Protective Order, no Party waives any right it otherwise would have to object to

disclosing or producing any information or item on any ground. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

11.3. **Filing Protected Material.** ~~A Party that seeks to file under seal any~~
~~See order issued~~ ~~ist comply with Local Civil Rule 10-5. Protected Material may~~
~~concurrently herewith~~ ~~al pursuant to a court order authorizing the sealing of the specific~~

~~Protected Material at issue. If a Party's request to file Protected Material under seal is~~
~~denied by the Court, then the Receiving Party may file the information in the public~~
~~record unless otherwise instructed by the Court.~~

XII. FINAL DISPOSITION

After the final disposition of this Action, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

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XIII. VIOLATION

Any violation of this Order may be punished by appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: August 25, 2016.

HAINES & KRIEGER, LLC

By /s/ Jennifer Isso

David H. Krieger

Jennifer Isso

HAINES & KRIEGER, LLC

8985 S. Eastern Avenue, Suite 350

Henderson, Nevada 89123

DATED: August 25, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By /s/ J Christopher Jorgensen

J Christopher Jorgensen

3993 Howard Hughes Pkwy, Suite 600

Las Vegas, Nevada 89169

ORDER

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.


United States Magistrate Judge

DATED: August 26, 2016

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Lewis Roca
ROTHGERBER CHRISTIE

EXHIBIT A**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, _____ [print or type full name], of

[print or type full address], declare under penalty of perjury under the laws of the United States that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the District of Nevada on

_____ [date] in the case of *Regina M. Florence v. Cenlar Federal*

Savings & Loan, et al., Case Number 2:16-cv-00587-GMN-NJK. I agree to comply

with and to be bound by all the terms of this Stipulated Protective Order and I

understand and acknowledge that failure to so comply could expose me to sanctions and

punishment in the nature of contempt. I solemnly promise that I will not disclose in any

manner any information or item that is subject to this Stipulated Protective Order to any

person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the District of Nevada for the purpose of enforcing the terms of this Stipulated

Protective Order, even if such enforcement proceedings occur after termination of this

action. I hereby appoint _____ [print or type full name]

of _____

[print or type full address and telephone number] as my agent for service of process in

connection with this action or any proceedings related to enforcement of this Stipulated

Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____